

REMARKS

An Information Disclosure Statement is attached to this Amendment which points out U.S. 3,296,723. This patent is very similar to but not identical to DE 1569879.

In paragraph 3 of the Office Action, claims 33, 46 and 49 were objected to as containing certain informalities,. Each of these informalities has been corrected and it is requested that this ground of objection be withdrawn.

unit is required. For this reason, it is requested that this In paragraph 4 of the Office Action, Claims 25-27, 30-36, 38, 45-47, 49 and 50 were rejected under 35 U.S.C.§103(a) as being unpatentable over DE 1569879 in view of Ito et al. and the admitted prior art (specification, page 4, lines 21-25

Reconsideration is requested.

Claims 25, 47 and 50 have been amended to point out that the label is a patch label that will readily feed from a label magazine or gripper. This language is found in the specification at page 7, lines 22-24.

DE 1569879 describes labels for glueing on articles which may be made of paper or plastics films. The labels are provided with a hydrophilic carboxy group containing polymer. The text of this patent points out that the hydrophilic carboxyl coating is used to prevent the glue from penetrating through the paper label and prevents the glue from rebounding or "sleeking off" the label.(translation, page 2). In addition, DE 1569879 states that the label with the hydrophilic carboxy groups is still water-vapor permeable. Thus, this patent appears to be directed primarily to paper labels and the discussion of water vapor permeable does not appear to be applicable to a polymeric label. Example 3 of this patent describes a plastic foil (film) of PVC as a label

substrate and mentions at page 5 of the translation that aqueous adhesive may be used. There are six examples in DE1569879 and all example except Example 3 are only concerned with papers labels.

Example 3 of DE1569879 has been repeated and the results are presented in the attached copy of the Declaration of Leslie Fernandez that is of record in U.S. 6,663,746. That Declaration provides data that shows that label of Example 3 of DE 1569879 will not dry and the treated surface remains sticky like cellophane tape so that those individual labels will stick to one another and cannot be used in a labeling machine where they are stacked one upon another. The amendatory language of claims 25, 47 and 50 points out that the claimed process uses a patch label that will readily feed from a label magazine or gripper. This language would exclude a label as made in Example 3 of DE 1569879 from the claims and there is nothing in DE 1569879 that gives any motivation as to how to modify the surface of the PVC label of Example 3 so that the labels do not stick to one another.

The Ito et al. patent only discloses a voided material that can be used for labeling and there is no reason to combine this patent with DE 1569879 because if the voided film is used in place of the film and paper of DE 1569879 the labels would not require the treatment taught by that patent. There is no mention in Ito et al. of what type of adhesive could or should be used if the product is used to make labels. Neither reference addresses the problem solved by the present invention which is the labeling of plastic, glass or metal containers with a microvoided polymer using a water based adhesive. There was no suggestion in Ito et al. that the voided property could be utilized to manage the water in a water based adhesive when the microvoided film was used a labeling material.

The admitted prior art at page 4, lines 21-25 of the specification was concerned with hot melt technology as noted at page 4, line 12. The fact that hot melt adhesives have been

used as label adhesives for polymeric labels provides no teaching or suggestion as to how to use a water based adhesive to fasten a polymeric label to a glass, plastic or metal container. The present specification at page 5, lines 6-35 explains why a water based adhesive does not work with a polymer label where the water based adhesive is applied to an ordinary polymer film: there is no place for the water to go and the label "swims" off the container. For these reasons, it is requested that this ground of rejection be withdrawn.

In paragraph 5 of the Office Action, Claims 28, 29, 43 and 44 were rejected under 35 U.S.C. §103(a) as being unpatentable over DE 1569879, Ito et al. the admitted state of the art further in view of Jannusch.

Reconsideration is requested.

DE 1569879, Ito et al. and the state of the art have been distinguished from the claimed invention above. The Jannusch patent, at col. 8, line 38, mentioned polystyrene as the only example of a plastic. No mention was made of the use of polypropylene.

Jannusch does not mention the use of any foamed plastic substrate as a label and makes no reference to the use of a heat shrinking technique in connection with the use of the Jannusch water based adhesive. Jannusch does not mention any type of a microvoided or foam label. Moreover, Jannusch is silent as to the use of any label substrate which allows water to migrate into the label.

The Jannusch patent is limited to a labeling system which must use a caustic sensitive labeling adhesive that contains an active metal such as aluminum. The metal component is added to make the adhesive debonding in the presence of a strong base. The labels that are disclosed in Example XIII, are paper and the only containers that are actually labeled are glass containers. There is no disclosure in Jannusch of any polymeric label having a density of less than 0.9. Claims 25, 47 and 50 (and the presently rejected dependent claims) point out a method of labeling a plastic, metal or glass container

with a patch label which is not disclosed by Jannusch. Jannusch is defective as a reference because it lacks a teaching of anything that would suggest or make obvious the combination of the teachings of that reference with DE 1569879. The deficiency in the Jannusch patent is that patent is only concerned with the use of an adhesive which contains an active metal that functions to make the adhesive debonding in the presence of a strong base. The labels that are disclosed in Jannusch, in Example XIII, are paper and the plastic labels that are mentioned are not disclosed as having being microvoided.

For these reasons, it is requested that this ground of rejection be withdrawn.

In paragraph 6 of the Office Action, claims 39-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over DE 1569879, Ito et al. and the admitted prior art further in view of Kelly.


Reconsideration is requested.

DE 1569879, Ito et al. and the state of the art have been distinguished from the claimed invention above.

The Kelly patent is limited to a disclosure of the use of slip aids in combination with labels that are not made of low density polymers. Nothing in Kelly teaches how to apply a microvoided polymer label to a container. For these reasons, it is requested that this ground of rejection be withdrawn.

An early and favorable action is earnestly solicited.

Respectfully submitted,


James V. Costigan
Reg. No. 25,669

Hedman & Costigan, P.C.
1185 Avenue of the Americas
New York, NY 10036
(212) 302-8989